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Remarks

Applicants respectfully request reconsideration in view of the amendments and remarks below.

Claims 1-4, 6-11 and 22-29 were pending. Independent claims 1, 8, 22, 25 and 28 are being amended. Claims 1-4, 6-11 and 22-29 are now pending.

In the Office Action dated November 28, 2005, the Examiner objected to claim 4 (sic - claim 1), line 4, requiring a comma to be inserted after the word "process". The Examiner also objected to claim 22, line 9, stating that a comma should be inserted after the word "balloon". The Examiner also stated that in line 10 of claim 22, "catheter" should be deleted, and at lines 11-12, the limitation "and which includes radioactive material" is redundant and should be deleted. In response, applicant has made the requested amendments, noting that the requested changes are matters of form, not substance.

The Examiner rejected claims 1-4, 6-11 and 22 under 35 U.S.C. 112, first paragraph for the language "substantially uniformly disbursed throughout its structure", stating that the original disclosure does not disclose this feature. Without conceding the

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correctness of the Examiner's statement, this claim language has been deleted from independent claims 1, 8 and 22.

The Examiner rejected claims 1-7 under U.S.C. 112, second paragraph, alleging that the limitation "and being made of expandable and collapsible material" is allegedly indefinite as to what structure has that feature. In response, applicant has amended claim 1 to make it clear that the tube segment has this feature.

The Examiner rejected claims 1, 3, 7, 8, 10 and 22 as being allegedly anticipated by Klein '284. The Examiner also rejected claims 25-29 over newly cited Roubin et al. '257, as allegedly anticipated (claims 25-27) or allegedly obvious over Roubin et al in view of Pflueger '038. The Examiner also rejected claims 2 and 9 as allegedly obvious over Klein '284 in view of Hess '168. Claims 4 and 11 were rejected as allegedly obvious over Klein '284 in view of Fischell '282.

In response to the Office Action, without conceding the correctness of the Examiner's rejections, but solely to advance prosecution, applicant has amended independent claims 1, 8, 22, 25 and 28. Applicant's comments will be directed to the

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independent claims.

Claim 1 has been amended to recite that the tube segment is made of a polymer (see application as filed paragraph) and provides a uniform radiation distribution around its entire circumferential extent. Support for this feature may be found on page 14, lines 4-12, wherein a non-uniform distribution (longitudinal or axial) may be provided if the thickness of the material of the tube segment varies in such directions, implying that if there is no such variation, (as disclosed in Fig. 3) a uniform radiation pattern around its circumferential extent will be provided.

Claim 1 distinguishes patentably over Klein at least because Klein does not disclose providing a radiation pattern which is uniform around its entire circumferential extent. Klein has embedded radiation pieces, which provide the radiation pattern shown in its Fig. 18, which is not uniform around its entire circumferential extent.

Claims 8 and 22 have been amended in a manner similar to claim 1, and the above remarks apply to claims 8 and 22.

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Independent claim 25 has been rejected as allegedly anticipated by U.S. Patent No. 5,354,257 to Roubin et al. This reference relates to a catheter having a radiation source 63, in the form of a tubular sleeve, embedded in the distal end of a tube of the catheter. This reference does not disclose a tube segment being made of expandable and collapsible material, which is recited in claim 25 as amended. Claim 25 now distinguishes patentably over this reference.

Claim 28 has been rejected as allegedly obvious over Roubin et al. '257 in view of Pflueger '038. Without conceding the correctness of the Examiner's rejection, but solely to advance prosecution, claim 28 has been amended to recite that the tube segment is made of an expandable and collapsible material, and should be patentable for at least the same reasons that claim 25 is patentable.

The Pflueger '030 patent relates to a catheter having a guidewire, but does not disclose a tube segment having material for producing a radiation pattern, whether expandable or otherwise.

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The dependent claims recite further features and should be allowable for at least the same reasons as the respective independent claims are allowable.


No fee is believed to be due in connection with this Communication. If any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account Number 03-3125.

Respectfully submitted,

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:

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